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1/11/84

MEMORANDUM FOR: General Counsel

SUBJECT : Invitational Travel

1. In connection with recent proposals by the Office of Communications and the Office of Personnel for a simplified BOP procedure which would involve invitational travel or a variant thereof, I have checked the Comptroller General's decisions and I believe that the following are all such decisions issued to date bearing on the subject of invitational travel (summarized in attachment):

3 Comp. Gen. 200, 5 March 1954
15 Comp. Gen. 206, 13 September 1955
31 Comp. Gen. 173, 8 November 1951
31 Comp. Gen. 400, 25 March 1952
34 Comp. Gen. 114, 2 September 1954
34 Comp. Gen. 435, 10 March 1955

2. In general, the rule on invitational travel for applicants might be stated as follows:

Travel of an applicant from place of residence to place of interview, and return, may be reimbursed, if for the purpose of determining his qualifications for an excepted position (but not if for the sole purpose of inducing him to accept the position).

3. In addition, several decisions permit the payment to employees of traveling expenses to first duty station as an element of compensation, where the employee is in an excepted position.

a. 5 Comp. Gen. 274 - (Headnote) "Where the contracts of employment of employees of the Coast and Geodetic Survey whose services are only required seasonally provide for the payment of their traveling expenses from their homes to their places of employment as part of their agreed compensation, reimbursement for such expenses may be allowed."

b. 19 Comp. Gen. 71 - (footnote) "Allowance of transportation to and from place of work for skilled tradesmen employed to [redacted] work may be provided for as part of their agreed compensation by contract of employment, or appropriate regulation, if their employment is of the type exempted from classification by section 5 of the Classification Act of 1949, and their schedule or rate of pay is not otherwise fixed by law or regulations."

c. Unpublished D 124005, 6 Oct. 1955, refused Defense authority under P.L. 600 to transport an employee from residence to [redacted] duty station when both were in the same territory or coterminous overstates, but concluded:

"We suggest, however, that to the extent the positions to be filled are not subject to the Classification Act of 1949, as exempted, and the salary rates are not fixed by law or regulations there would be no legal objection to providing by the contracts of employment or by appropriate regulation for allowance of transportation to and from place of work as part of the compensation for the employment. See 5 Comp. Gen. 274; 19 id. 71; 23 id. 280."

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d. The holding in 23 Comp. Gen. 280 is similar to the foregoing.

4. I have spoken with Mr. [redacted] the Office of the General Counsel to the Comptroller General, who advises informally that he believes it would be proper for us to provide round-trip travel as part of compensation under the circumstances contemplated by the Office of Personnel in its memorandum to the Deputy Director (Support) dated 29 May 1956, entitled "Revised Procedure in Processing Clerical Applicants."

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5. I suggest that this memorandum with its attachment be forwarded to Mr. [redacted] as the legal basis for such administrative action as may be considered appropriate by the Deputy Director (Support).

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[redacted]
Assistant General Counsel

Attachment

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MEMORANDUM FOR: Deputy Director (Support)
SUBJECT : Revised Procedure in Processing Security
Applicants
REFERENCE : Memorandum to Deputy Director (Support) from
Director of Personnel, Same Subject, Dated
29 May 1956

There appear to be no legal obstacles that would preclude carrying out the recommendations in reference if you wish to approve them. As the attached study indicates, however, there are some technical tightropes to walk, so it is suggested that this office participate in working out the details.

LAWRENCE B. MULFORD
General Counsel

Attachment

OGC:RFB:bb
Distribution

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1 - Chief, Medical Staff
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Chrono

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